shall after his death he held by his widow and children exempt as before. Where the householder owed the same debts when he died that he owed when the homestead was claimed, the widow cannot be divested of her statutory privilege by the paying off of the debts by the heirs of the householder. Nor will such result attach when the land has been sold for taxes, but no claim as purchaser has been asserted by the State or city. If payment of the taxes be made, the full statutory homestead rights of the widow will be recognized and enforced. *Davis* v. *Davis* (Va.), 43 S. E. 358.

CONSTITUTIONAL LAW—PUBLIC SCHOOL TEACHERS—SALARIES—PENSIONS.—An act providing for the deduction of a percentage from the salaries of public school teachers to provide a pension fund for their benefit is held, in *Hubbard* v. *State ex rel. Ward* (Ohio), 58 L. R. A. 654, to be unconstitutional either for lack of uniformity, or as a taking of private property from one citizen for the benefit of another.

A rule of a board of education providing for a deduction of 1 per cent. from the salaries of all teachers to be paid into a fund for the purpose of providing annuities for teachers becoming incapacitated by reason of long service, is held, in *State ex rel. Jennison* v. *Rogers* (Minn.), 58 L. R. A. 663, to be unauthorized and void.

JUDGMENT—BAR TO SUBSEQUENT ACTION—SHERIFFS—FALSE IMPRISONMENT—WRONGFUL LEVY.—A satisfied judgment against the complaining witness, magistrate, and constable for false imprisonment under void proceedings is held in *Blackman* v. *Simpson* (Mich.), 58 L. R. A. 410, to bar a subsequent action against the sheriff in whose custody defendant was placed, although the first suit covered only the time until defendant reached the sheriff's custody, while the second one seeks damages for the period from that time until his release.

An unsatisfied judgment in replevin against a sheriff for wrongful seizure of property under execution is held, in *Woodworth* v. *Gorsline* (Colo.), 58 L. R. A. 417, not to be a bar to a subsequent action in trover to recover the value of the property from those who executed the indemnity bond.

With these cases is a note collating the authorities on effect of judgment against one joint tort feasor upon liability of the other.

In *Peticolas* v. *City of Richmond*, 95 Va. 456, 3 Va. Law Register, 803, a judgment, whether satisfied or not, against one of several joint trespassers was held a bar to any action against the co-trespassers.

CONTRACTS—BREACH—ELECTION OF REMEDIES.—A suit in equity for specific performance of a contract cannot be sustained where the plaintiff has already prosecuted to judgment a common law action for damages, even though the damages ascertained by such judgment were nominal. *Slaughter* v. *La Compagnie Francaise Des Cables Telegraphiques* (C. C. A., 2d Cir.), 119 Fed. 588. Citing *Rogers* v. *Vosburgh*, 4 Johns. Ch. 84; *Livingston* v. *Kane*, 3 Johns. Ch. 221; *Connihan* v. *Thompson*, 111 Mass. 270.

Per Lacombe, Circuit Judge:

"Modern practice does not allow a party to bring an action at law, not for damages, but to establish some single issues in the controversy, such as validity of

contract, breach of it, or what not, and then, having determined those issues in one action, to bring a second action for the relief appropriate to the facts found in the first one. If he sues at law for a breach, he is entitled to recover the damages he has sustained by such breach; and recovering them, whether their amount be large or small, bars him from insisting thereafter in equity that defendant perform the contract. If, as the trial of the action at law progresses, plaintiff discovers that the evidence is not likely to secure him sufficient damages, he should apply to withdraw a juror, so as to leave himself free to apply thereafter for equitable relief. In the cause at bar he was warned by the ruling of the trial judge, before it was sent to the jury, that he could not expect substantial damages. When after that he persisted in going on to verdict and judgment, he made an election which he cannot now repudiate."

JUDGMENT—COLLATERAL ATTACK—DURESS—EXTORTION—RESTITUTION.—Plaintiff having charged defendant with having maintained illicit relations with his (plaintiff's) wife in the State of Michigan, and having pursued defendant to his residence in Canada, was paid by defendant a sum of money in satisfaction of the injury. Soon thereafter plaintiff was arrested by the Canadian authorities for obtaining this sum through threats and menaces, was confined in jail for six weeks, when he obtained his release and discharge by signing a retraction of the charge he had made against defendant, surrendering the money to defendant, and entering a plea of guilty to the charge of extortion, whereupon the court suspended sentence on plaintiff's agreeing to leave the jurisdiction. The parties having returned to Michigan, suit was instituted by plaintiff for the sum of money so returned, as having been obtained from him by duress. *Held*, that a verdict for defendant should have been directed, because the judgment of conviction of the criminal charge was conclusive that plaintiff was properly adjudged guilty, and that plaintiff in this action cannot collaterally impeach the foreign judgment, where no fraud in obtaining the judgment is shown. *Coveney* v. *Phiscator* (Mich.), 93 N. W. 619. Citing Black on Judgments, sec. 5829; *Palmer* v. *Oakley*, 2 Doug. 433, 47 Am. Dec. 41.

NATIONAL BANKS—STATE REGULATION—RECEIVING DEPOSITS WHEN INSOLVENT.—So far as a State law attempts to prohibit national banks from receiving deposits when insolvent, and prescribes a punishment for a violation of such prohibition by any officer or agent thereof, it is invalid as an attempt to control and regulate the business operation of national banks. *Easton* v. *Iowa* (U. S. Sup. Ct., Feb. 2, 1903.)

The plaintiff in error was convicted and sentenced to five years imprisonment under the provisions of a statute of Iowa for the offense of having received, as president of the First National Bank of Decorah, Iowa, a deposit of $100, at a time when he knew the bank to be insolvent. The Supreme Court of Iowa affirmed the judgment of conviction, but the United States Supreme Court reverses both judgments, reaffirming the principle propounded in *Davis* v. *Elmira Savings Bank*, 161 U. S. 275, as follows:

"National banks are instrumentalities of the Federal government, created for a public purpose, and as such necessarily subject to the paramount authority of the United States. It follows that an attempt by a State to define their duties or